

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JOSEPH FREEMAN WALKER,

Plaintiff,

v.

CIVIL ACTION NO. 5:12-cv-00566

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By *Standing Order* (Document 4) entered on February 27, 2012, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On February 22, 2013, the Magistrate Judge submitted his *Proposed Findings and Recommendation* (Document 15), wherein it is recommended that this Court grant the Plaintiff's motion for judgment on the pleadings, deny the Defendant's motion for judgment on the pleadings, reverse the final decision of the Commission, remand the matter for further proceedings, and dismiss the matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by March 11, 2013.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (holding that districts courts may adopt proposed findings and recommendations without explanation in the absence of objections).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*. The Court **ORDERS** that the Plaintiff's motion for judgment on the pleadings (Document 12) be **GRANTED** and that the Defendant's motion for judgment on the pleadings (Document 13) be **DENIED**. Further, the Court **ORDERS** that the final decision of the Commissioner be **REVERSED** and that this case be **REMANDED** for further proceedings consistent with the Magistrate Judge's *Proposed Findings and Recommendation*. Lastly the Court **ORDERS** that this action be **DISMISSED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge VanDervort, to counsel of record, and to any unrepresented party.

ENTER: March 12, 2013



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA